

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MARIE PEARSON,

3 :12-CV-01146-HU

Plaintiff,

ORDER

v.

REYNOLDS SCHOOL DISTRICT #7,
IVAN L. LEIGH, and JEFF GILBERT,

Defendants.

BROWN, Judge.

Magistrate Judge Dennis James Hubel issued Findings and Recommendation (#47) on November 18, 2013, in which he recommends the Court grant in part and deny in part Defendants' Motion (#34) for Summary Judgment. Specifically, the Magistrate Judge recommends the Court:

- (1) grant Defendants' Motion as to all claims against

Defendants Ivan L. Leigh and Jeff Gilbert;

- (2) grant Defendants' Motion as to Plaintiff's Title VII claim for disparate treatment;
- (3) grant Defendants' Motion as to Plaintiff's Title VII claim for retaliation for filing a complaint with the Oregon Bureau of Labor and Industry (BOLI);
- (4) grant Defendants' Motion as to Plaintiff's claim for intentional infliction of emotional distress;
- (5) grant Defendants' Motion as to Plaintiff's claim for negligent supervision;
- (6) grant Defendants' Motion as to Plaintiff's claim for punitive damages;
- (7) deny Defendants' Motion as to Plaintiff's Title VII claim for retaliation claim as related to retaliation for Plaintiff's April 2010 internal discrimination complaint;
- (8) deny Defendants' Motion as to Plaintiff's Title VII claim for hostile work environment; and
- (9) dismiss Defendants Ivan L. Leigh and Jeff Gilbert from this matter as improper parties.

Defendants filed timely Objections to the Findings and Recommendation in which they object to the Magistrate Judge's recommendation to deny Defendants' Motion for Summary Judgment as to Plaintiff's Title VII claim for hostile work environment and

to deny in part Plaintiff's Title VII retaliation claim. Plaintiff filed untimely¹ Objections to the Findings and Recommendation in which Plaintiff objects to the Magistrate Judge's recommendation to grant Defendants' Motion as to Plaintiff's Title VII claim for retaliation for filing a complaint with BOLI. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). See also *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*).

In their Objections Defendants and Plaintiff reiterate the arguments contained in the Motion for Summary Judgment, Response to Motion for Summary Judgment, and Reply and stated at oral argument. This Court has carefully considered the Objections of Defendants and Plaintiff and concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and

¹ Although Plaintiff's Objections were untimely, the Court, in the exercise of its discretion, considers them in order to ensure all of the parties' arguments have been reviewed by the Court.

does not find any error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Hubel's Findings and Recommendation (#47) and, therefore, **GRANTS in part** and **DENIES in part** Defendants' Motion (#34) for Summary Judgment as follows:

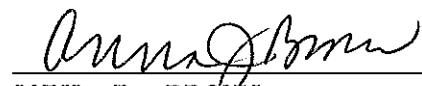
- (1) **GRANTS** Defendants' Motion as to all claims against Defendants Ivan L. Leigh and Jeff Gilbert;
- (2) **GRANTS** Defendants' Motion as to Plaintiff's Title VII claim for disparate treatment;
- (3) **GRANTS** Defendants' Motion as to Plaintiff's Title VII claim for retaliation for filing a complaint with the Oregon Bureau of Labor and Industry (BOLI);
- (4) **GRANTS** Defendants' Motion as to Plaintiff's claim for intentional infliction of emotional distress;
- (5) **GRANTS** Defendants' Motion as to Plaintiff's claim for negligent supervision;
- (6) **GRANTS** Defendants' Motion as to Plaintiff's claim for punitive damages;
- (7) **DENIES** Defendants' Motion as to Plaintiff's Title VII claim for retaliation claim as related to retaliation for Plaintiff's April 2010 internal discrimination complaint;

- (8) **DENIES** Defendants' Motion as to Plaintiff's Title VII claim for hostile work environment; and
- (9) **DISMISSES** Defendants Ivan L. Leigh and Jeff Gilbert from this matter as improper parties.

Accordingly, this matter proceeds only against Defendant Reynolds School District #7 as to Plaintiff's (1) Title VII retaliation claim related to alleged retaliation for her April 2010 internal discrimination complaint and (2) Title VII claim for hostile work environment.

IT IS SO ORDERED.

DATED this 24th day of February 2014.



ANNA J. BROWN
United States District Judge
